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November 1, 1993

**BY HAND**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Reply to Opposition to Petition for  
Reconsideration or Clarification  
in MM Docket No. 92-264

Dear Mr. Caton:

Please find enclosed, on behalf of the National Association of Telecommunications Officers and Advisors, et al., an original and eleven copies of the Reply to the Opposition of Time Warner to the Petition for Reconsideration and Clarification Filed By the National Association of Telecommunications Officers and Advisors, et al., in the above-referenced proceeding.

Any questions regarding the submission should be referred to the undersigned.

Sincerely,

*William E. Cook, Jr.*  
William E. Cook, Jr.

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of  
  
Implementation of  
Sections 11 and 13 of the  
Cable Television Consumer  
Protection and Competition  
Act of 1992

MM Docket No. 92-264

TO: The Commission

REPLY TO THE OPPOSITION OF TIME WARNER TO THE  
PETITION FOR RECONSIDERATION AND CLARIFICATION FILED BY  
THE NATIONAL ASSOCIATION OF TELECOMMUNICATIONS  
OFFICERS AND ADVISORS, THE NATIONAL LEAGUE OF  
CITIES, THE UNITED STATES CONFERENCE OF MAYORS,  
AND THE NATIONAL ASSOCIATION OF COUNTIES

The National Association of Telecommunications  
Officers and Advisors, the National League of Cities,  
the United States Conference of Mayors, and the National  
Association of Counties (collectively, the "Local  
Governments") hereby submit this Reply to the Opposition  
filed by Time Warner Entertainment Company, L.P. ("Time  
Warner") to the Petition for Reconsideration and  
Clarification of the Local Governments.

Time Warner opposes the request by the Local  
Governments that the Commission amend its rules so that  
the 120-day period for local review of a transfer  
request not commence until the cable operator submits  
all information required by a franchising authority.  
See Time Warner's Consolidated Comments Concerning

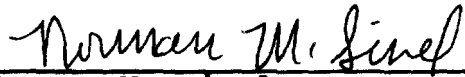
Petitions for Reconsideration and Clarification at 6-9 (filed Oct. 22, 1993) (hereinafter "Opposition"). Under the Commission's new rules, the 120-day period would begin once a cable operator submits information required by the Commission, the franchise agreement, and applicable state or local law. Time Warner alleges that a franchising authority would use its discretion to request additional information prior to the start of the 120-day period "as a basis for seeking franchise modifications or other unrelated concessions." Opposition at 7.

Time Warner presents no credible evidence that a franchising authority has abused its rights to request information from cable operators; indeed, the opposite problem has frequently occurred, and would recur if cable operators were permitted to manipulate the review period by withholding data. The right of franchising authorities, during the 120-day period, to assure that a transferee will provide cable subscribers an acceptable level of cable service has no bearing on whether a franchising authority has the right under Section 617(e) of the Cable Act, 47 U.S.C. § 537(e), to request information prior to the start of the 120-day period. Congress, in enacting Section 617(e), did not prohibit franchising authorities from seeking such assurances as part of the transfer process.

Historically, cable operators -- not franchising authorities -- have generally been responsible for any delays in the transfer process. They may delay in providing information requested by a franchising authority, provide incomplete information, or refuse to provide information altogether. The Commission's rules would compound the incentive for cable operators to refuse to provide information since the Commission only requires that cable operators "promptly" respond to a franchising authority's information request. The rules would not permit franchising authorities to extend the 120-day period, without the operator's approval, if the operator fails to "promptly" respond to such a request.

To prevent such abuses by cable operators, Local Governments again urge the Commission to amend its rules so that the 120-day review period commences only after information required by the Commission, the franchise agreement, state and local law, and the franchising authority is received.

Respectfully Submitted,



Norman M. Sinel  
Stephanie M. Phillipps  
William E. Cook, Jr.

ARNOLD & PORTER  
1200 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
(202) 872-6700  
Counsel for the Local  
Governments

November 1, 1993

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 1st day of November, 1993 served a true and correct copy of NATOA's Reply to the Opposition of Time Warner to the Petition for Reconsideration and Clarification Filed By NATOA, et al. by first class mail, postage prepaid, to:

Aaron I. Fleischman  
Arthur H. Harding  
Christopher G. Wood  
Fleischman and Walsh  
1400 Sixteenth Street, N.W.  
Sixth Floor  
Washington, D.C. 20036

  
\_\_\_\_\_  
William E. Cook, Jr.